

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GEORGE JARVIS AUSTIN,

Plaintiff,

v.

ABC LEGAL,

Defendant.

Case No. [21-cv-09076-SI](#)

**ORDER DISMISSING COMPLAINT  
WITH PREJUDICE**

Re: Dkt. Nos. 78, 80, 83, 84

On May 20, 2022, the Court entered an order granting defendant ABC Legal's motion to dismiss plaintiff George Jarvis Austin's second amended complaint for failure to state a claim on which relief could be granted. Dkt. No. 77. The Court's dismissal order identified three deficiencies in Austin's second amended complaint: (1) failure to allege, as required in the Ninth Circuit for a *prima facie* case under 42 U.S.C § 1981, that "similarly-situated individuals who were not members of the plaintiff's protected class" were not denied the right to contract for the services allegedly denied to Austin; (2) failure to allege, as required to state an Unruh Act claim under California law, nonconclusory allegations "that ABC Legal acted with discriminatory intent;" and (3) failure to specifically identify or plead verbatim, as required to state a defamation claim under California law, the alleged defamatory statements, or when and where the statements were published. Dkt. No. 77 at 5-7. Austin was granted two weeks to amend his complaint and cure these deficiencies.

Within a few hours after the entry of the Court's order, Austin filed a third amended complaint and a motion for reconsideration directed at the Court's order. Dkt. No. 78, 79. ABC Legal filed a motion to dismiss the third amended complaint on May 23, 2022. Dkt. No. 80. That same day, Austin filed an opposition brief and his own motion for judgment in his favor. Dkt. No. 83 (captioned "Motion for Judgment as a Matter of Law").

1 The third amended complaint does not add additional factual allegations that would cure the  
2 deficiencies identified in the Court's May 20, 2022 dismissal order. Accordingly, Austin's  
3 complaint remains deficient in the three ways identified above, and the Court will thus **GRANT**  
4 ABC Legal's motion to dismiss. Because Austin was given ample opportunity and guidance to draft  
5 a factually adequate complaint, but has twice failed to do so, dismissal is with prejudice.

6 The Court further **DENIES** Austin's motion for reconsideration and motion for judgement  
7 as a matter of law. All future hearings in this case are **VACATED**.

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9 **IT IS SO ORDERED.**

10 Dated: May 31, 2022



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12 SUSAN ILLSTON  
13 United States District Judge  
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